

REMARKS/ARGUMENTS

Reconsideration of this application is respectfully requested in view of the above noted amendments to the claims and the following remarks.

The status of the claims is as follows:

Claims 1-10, 12, 14-33, 35, and 37-56 are currently pending;

Claims 11, 13, 34, and 36 have been canceled;

Claims 47-56 are newly presented;

Claims 1-10, 12, 14-22, 24-33, and 35-45 are rejected; and

Claims 23 and 46 are objected to but allowable.

The examiner is thanked for the indication that claims 23 and 46 are allowable. Two new independent claims 53 and 55 have been added. These claims are of intermediate scope between the original independent claims and claims 23 and 46. It is contended that claims 54 and 56 are allowable.

Each newly presented claim is fairly based in the disclosure and these claims do not incorporate new matter. For instance, claims 47, 48, 50 and 51 are based on the disclosure in paragraph 20, and claims 49 and 52 are based on the disclosure in paragraph 15 and FIG. 4.

In the office action of April 14, 2005, the examiner has rejected claims 1-4, 10-16, 20-22, 24-27, 33-39, and 43-45 under 35 U.S.C. § 102(b) as anticipated by U. S. Patent No. 3,715,636, Jaffe et al., hereafter "Jaffe." This rejection as it applies to the claims now present is traversed.

Jaffe does not disclose the use of crystalline materials for the spherical housing. Claims 1 and 24 now are limited to a housing formed from a crystalline substance. Jaffe does not have any disclosure of the use of a crystalline material for the housing. Therefore this rejection has been obviated and should be withdrawn.

In the office action of April 14, 2004, the examiner has rejected claims 5-9, 17-19, 28-32, and 40-42 under 35 U.S.C. § 103(a) as being unpatentable over Jaffe. This rejection is respectfully traversed.

Jaffe does not describe any reason for the particular shape of the housing. As indicated, the housing of the present invention is designed to transmit light for devices that are used to precisely locate instruments based on the location of the light source. The particular materials

and shape of the focusing is important to be able to achieve this result. Here is no disclosure in Jaffe that would suggest to one of ordinary skill in the art that the configuration now claimed would provide precision locating of the source of the LED. Therefore, there is no disclosure in Jaffe that would lead a person of ordinary skill in the art to the devices as now claimed.


It is contended that the application is now in condition for a allowance. Such action at an early date is requested.

Deposit Account Authorization

The Commissioner is hereby authorized to charge any deficiency in any amount enclosed or any additional fees which may be required during the pendency of this application under 37 CFR 1.16 or 1.17, except issue fees, to Deposit Account No. 50-1903. A copy of this Transmittal is enclosed.

Respectfully submitted,

McCracken & Frank LLP
200 W. Adams, Suite 2150
Chicago, Illinois 60606
(312) 263-4700
Customer No: 29471

By: 

J. William Frank, III
Reg. No: 25,626

August 15, 2005